

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BARBARA KING,

Plaintiff,

v.

RESURGENCE FINANCIAL, LLC,

Defendant.

Case No.: 08 CV 3306

Judge St. Eve  
Magistrate Judge Cox

**MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT  
TO RULE 12(B)(6)**

Defendant, Resurgence Financial, LLC, ("Resurgence") by and through its attorneys, David M. Schultz and Todd P. Stelter, and for its Rule 12(b)(6) Motion to Dismiss Plaintiff's First Amended Complaint, states as follows:

1. Plaintiff's first amended complaint alleges that Resurgence violated the Fair Debt Collection Practices Act, 15 U.S.C. §§1692e, 1692e(2), 1692e(5), 1692e(10) and 1692f ("FDCPA"), Illinois Collection Agency Act, 225 ILC 425/8b ("ICAA") and Illinois Consumer Fraud Act, 815 ILCS 505/2 ("ICFA") by filing a lawsuit for collection of a debt from her without having an assignment that complies with Section 8b of the ICAA and without attaching the assignment to the collection complaint.

2. Plaintiff's argument fails for several reasons which are discussed further in defendant's Memorandum of Law in support of its Motion to Dismiss which is filed contemporaneously with this Motion.

WHEREFORE, Resurgence respectfully requests this court grant its Motion to Dismiss and dismiss plaintiff's first amended complaint with prejudice.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

By: s/Todd P. Stelter

\_\_\_\_\_  
One of the Attorneys for Defendant

David M. Schultz  
Todd P. Stelter  
Hinshaw & Culbertson LLP  
222 N. LaSalle, Suite 300  
Chicago, IL 60601  
312-704-3000

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BARBARA KING,

Plaintiff,

v.

RESURGENCE FINANCIAL, LLC,

Defendant.

Case No.: 08 CV 3306

Judge St. Eve  
Magistrate Judge Cox

**CERTIFICATE OF SERVICE**

I hereby certify that on August 13, 2008, I electronically filed MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO RULE 12(B)(6) with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to the following:

Dan Edelman  
[dedelman@edcombs.com](mailto:dedelman@edcombs.com)

Respectfully submitted,

By:           s/Todd P. Stelter          

David M. Schultz  
Todd P. Stelter  
HINSHAW & CULBERTSON LLP  
222 N. LaSalle Street, Ste 300  
Chicago, IL 60601  
(312) 704-3000